

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 912 of 1997

in

SPECIAL CIVIL APPLICATION No 585 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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PATEL KODARLAL BECHARDAS

Versus

STATE OF GUJARAT

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Appearance:

MR HN BRAHMBHATT for Appellant

MR MA BUKHARI AGP for Respondent No. 1

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CORAM : MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE A.M.KAPADIA

Date of decision: 06/10/98

ORAL JUDGEMENT (Per C.K. Thakker, J.):

Admitted. Mr. M.A. Bukhari, learned A.G.P. appears and waives service of notice of admission on behalf of respondent. In the facts and circumstances of

the case, the matter is taken up for final hearing today.

This appeal is filed against the judgment and order passed by the learned Single Judge in Special Civil Application No. 585 of 1984, dated December 12, 1996.

The appellant was the original petitioner. He filed the above petition against an order passed by the Mamlatdar, confirmed by Deputy Collector and also by the Gujarat Revenue Tribunal.

A number of contentions were raised before learned Single Judge as well as before us. It is, however, not necessary for us to go into larger questions. Looking to the record as well as the order passed by learned Single Judge, it is clear that at an earlier occasion, when the proceedings under the Gujarat Agricultural Land Ceiling Act, 1960 ('the Act' for short) were taken against appellant, it was held that appellant was not holding vacant land and the proceedings were dropped. It further appears that the said order was taken in suo motu Revision by the Deputy Collector who by an order dated 23.1.1980, allowed the revision and remanded the matter to Mamlatdar. The Mamlatdar thereafter decided the matter. From the order of the learned Single Judge, it is clear that the matter was fixed for hearing on 6.3.1981 before the Mamlatdar & ALT (Land Ceiling), Ahmedabad, and though the appellant was served, he was not present. There was no application for adjournment as well. The matter was thereafter adjourned to 23.3.1981. On that day also, nobody was present.

The case of the appellant was that there were disturbances in the city and that Dahegam Town was under curfew. He, therefore, could not remain present nor could send an application. The matter proceeded ex-parte and decision was given against appellant. Being aggrieved by the said order, appeal was filed which was dismissed. Revision as well as Special Civil Application also met with same fate.

In the facts and circumstances of the case, in our opinion, when two occasions the appellant could not remain present before the Mamlatdar and that his case was that because of disturbances in the town and curfew, he could not remain present, it will be in the interest of justice if the matter is remanded to the Mamlatdar so as to extend an opportunity of hearing to appellant.

Accordingly, the LPA is allowed. Order passed by Mamlatdar and confirmed by the Deputy Collector, Gujarat

Revenue Tribunal and by the learned Single Judge is quashed and set aside. The matter is remanded to the Mamlatdar and ALT, Ahmedabad who will now decide the matter in accordance with law. No order as to costs.

We may state that we are not expressing any opinion on merits. As and when the matter will be heard by Mamlatdar and ALT, it will be decided strictly on its own merits without being influenced by the observations made in previous orders as well as by us hereinabove.

It is needless to say that in view of the fact that the appeal is allowed, the order passed by learned Single Judge awarding cost of Rs.2,000/- against the appellant also does not remain.

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